

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee.

v.

No. 00-4256

DAVID W. LINDSAY,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of West Virginia, at Clarksburg.
Irene M. Keeley, District Judge.
(CR-99-38)

Submitted: September 26, 2000

Decided: October 11, 2000

Before WIDENER, NIEMEYER, and WILLIAMS, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Joan A. Mooney, STILLER & MOONEY, P.L.L.C., Morgantown,
West Virginia, for Appellant. Melvin W. Kahle, Jr., United States
Attorney, Zelda E. Wesley, Assistant United States Attorney, Clarks-
burg, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See
Local Rule 36(c).

OPINION

PER CURIAM:

David W. Lindsay appeals the district court's grant of the government's pre-trial motion in limine requesting that Lindsay be precluded from asserting a justification defense. Lindsay thereafter entered a plea of guilty to possessing a firearm as a convicted felon, in violation of 18 U.S.C.A. § 922(g)(1) (West Supp. 2000), reserving the right to appeal the district court's order precluding his justification defense.

We review *de novo* a trial court's refusal to allow a justification defense. *See United States v. Perrin*, 45 F.3d 869, 876 (4th Cir. 1995). This circuit construes the justification defense narrowly. *See, e.g., id.*, at 875. In order to assert a justification defense, Lindsay must meet the four criteria set forth in *United States v. Crittendon*, 883 F.2d 326, 330 (4th Cir. 1989). The first of those criteria is that Lindsay must prove that he was under unlawful and present threat of death or serious bodily injury when he possessed the firearms. *Id.* This court has held that the threat or fear of future bodily harm does not warrant a justification defense. *See United States v. Holt*, 79 F.3d 14, 16 (4th Cir. 1996).

The undisputed record facts are that the firearms were found to be in Lindsay's possession six to eight hours after the threats on which Lindsay is relying to support his defense were made. Because a generalized fear of a future encounter of harm is not sufficient to support a justification defense, *see Holt*, 79 F.3d at 16, we agree with the district court that Lindsay has not established the first element in *Crittendon*, and affirm the district court's grant of the government's motion in limine. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED